
TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

Final Rule

LSA Document #05-260(F)

DIGEST

Amends [410 IAC 17-9-4](#), [410 IAC 17-9-18](#), [410 IAC 17-10-1](#), [410 IAC 17-12-1](#), [410 IAC 17-12-3](#), [410 IAC 17-13-1](#), and [410 IAC 17-16-1](#) and adds [410 IAC 17-9-21.4](#), [410 IAC 17-9-21.5](#), [410 IAC 17-9-22.4](#), [410 IAC 17-9-22.5](#), [410 IAC 17-13-2](#), and [410 IAC 17-13-3](#) to revise and add definitions, revise the requirements and procedures for home health agencies, add requirements for home health aide registration upon change in employment, increase the annual license fee, and make changes for compliance with P.L.212-2005. Effective 30 days after filing with the Publisher.

[410 IAC 17-9-4](#); [410 IAC 17-9-18](#); [410 IAC 17-9-21.4](#); [410 IAC 17-9-21.5](#); [410 IAC 17-9-22.4](#); [410 IAC 17-9-22.5](#); [410 IAC 17-10-1](#); [410 IAC 17-12-1](#); [410 IAC 17-12-3](#); [410 IAC 17-13-1](#); [410 IAC 17-13-2](#); [410 IAC 17-13-3](#); [410 IAC 17-16-1](#)

SECTION 1. [410 IAC 17-9-4](#) IS AMENDED TO READ AS FOLLOWS:

[410 IAC 17-9-4](#) "Attendant care services" defined**Authority:** [IC 16-27-1-7](#)**Affected:** [IC 16-18-2-28.5](#); [IC 16-27-1](#)

Sec. 4. "Attendant care services" means ~~those services that could be performed by an impaired individual for whom the services are provided if the individual were not impaired, that enable the impaired individual to live in the individual's home and community, rather than in an institution, and to carry out functions of daily living, self care, and mobility. The term includes the following:~~

- ~~(1) Assistance in getting in and out of beds, wheelchairs, and motor vehicles.~~
- ~~(2) Assistance with routine bodily functions, including the following:~~
 - ~~(A) Bathing and personal hygiene.~~
 - ~~(B) Using the toilet.~~
 - ~~(C) Dressing and grooming.~~
 - ~~(D) Feeding, including preparation and cleanup.~~
- ~~(3) The provision of assistance as follows:~~
 - ~~(A) Through providing reminders or cues to take medication, the opening of pre-set medication containers, and providing assistance in the handling or ingesting of noncontrolled substance medications, including eye drops, herbs, supplements, and over the counter medications.~~
 - ~~(B) To an individual who is unable to accomplish the task due to an impairment and who is:~~
 - ~~(i) competent and has directed the services; or~~
 - ~~(ii) incompetent and has the services directed by a competent individual who may consent to health care for the impaired individual. as defined in [IC 16-18-2-28.5](#).~~

(Indiana State Department of Health; [410 IAC 17-9-4](#); filed Mar 18, 2002, 3:40 p.m.: 25 IR 2478; filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

SECTION 2. [410 IAC 17-9-18](#) IS AMENDED TO READ AS FOLLOWS

[410 IAC 17-9-18](#) "Home health services" defined**Authority:** [IC 16-27-1-7](#)**Affected:** [IC 16-27-1-5](#)

Sec. 18. (a) "Home health services" means services that are:

- ~~(1) provided to a patient by:~~
 - ~~(A) a home health agency; or~~
 - ~~(B) another person under an arrangement with a home health agency;~~
- ~~in the temporary or permanent residence of the patient; and~~

(2) ordered by a licensed physician, a licensed dentist, a licensed chiropractor, a licensed podiatrist, or a licensed optometrist.

(b) The term includes the following:

- (1) Nursing treatment and procedures.
- (2) Physical therapy.
- (3) Occupational therapy.
- (4) Speech therapy.
- (5) Medical social services.
- (6) Home health aide services.
- (7) Other therapeutic services.

(c) The term does not apply to the following:

- (1) Services provided by a physician licensed under [IC 25-22.5](#).
- (2) Incidental services provided by a licensed health facility to patients of the licensed health facility.
- (3) Services provided by employers or membership organizations using health care professionals for their employees, members, and families of the employees or members if the health or home care services are not the predominant purpose of the employer or a membership organization's business.
- (4) Nonmedical nursing care given in accordance with the tenets and practice of a recognized church or religious denomination to a patient who depends upon healing by prayer and spiritual means alone in accordance with the tenets and practices of the patient's church or religious denomination.
- (5) Services that are allowed to be performed by an attendant under [IC 16-27-1-10](#).
- (6) Authorized services provided by a personal services attendant under [IC 12-10-17](#), as defined in [IC 16-27-1-5](#).

(Indiana State Department of Health; [410 IAC 17-9-18](#); filed Mar 18, 2002, 3:40 p.m.: 25 IR 2479; filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

SECTION 3. [410 IAC 17-9-21.4](#) IS ADDED TO READ AS FOLLOWS

[410 IAC 17-9-21.4](#) "Occupational therapist" defined

Authority: [IC 16-27-1-7](#)

Affected: [IC 16-27-1](#); [IC 25-23.5](#)

Sec. 21.4. "Occupational therapist" means an individual who is licensed as an occupational therapist pursuant to [IC 25-23.5](#).

(Indiana State Department of Health; [410 IAC 17-9-21.4](#); filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

SECTION 4. [410 IAC 17-9-21.5](#) IS ADDED TO READ AS FOLLOWS

[410 IAC 17-9-21.5](#) "Occupational therapist assistant" defined

Authority: [IC 16-27-1-7](#)

Affected: [IC 16-27-1](#); [IC 25-23.5](#)

Sec. 21.5. "Occupational therapist assistant" means an individual who is certified as an occupational therapist assistant pursuant to [IC 25-23.5](#).

(Indiana State Department of Health; [410 IAC 17-9-21.5](#); filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

SECTION 5. [410 IAC 17-9-22.4](#) IS ADDED TO READ AS FOLLOWS

[410 IAC 17-9-22.4](#) "Physical therapist" defined

Authority: [IC 16-27-1-7](#)

Affected: [IC 16-27-1](#); [IC 25-27](#)

Sec. 22.4. "Physical therapist" means an individual who is licensed as a physical therapist pursuant to [IC 25-27](#).

(Indiana State Department of Health; [410 IAC 17-9-22.4](#); filed Sep 26, 2006, 9:56 a.m.:
[20061025-IR-410050260FRA](#))

SECTION 6. [410 IAC 17-9-22.5](#) IS ADDED TO READ AS FOLLOWS:

[410 IAC 17-9-22.5](#) "Physical therapist assistant" defined

Authority: [IC 16-27-1-7](#)

Affected: [IC 16-27-1](#); [IC 25-27](#)

Sec. 22.5. "Physical therapist assistant" means an individual who is certified as a physical therapist assistant pursuant to [IC 25-27](#).

(Indiana State Department of Health; [410 IAC 17-9-22.5](#); filed Sep 26, 2006, 9:56 a.m.:
[20061025-IR-410050260FRA](#))

SECTION 7. [410 IAC 17-10-1](#) IS AMENDED TO READ AS FOLLOWS:

[410 IAC 17-10-1](#) Licensure

Authority: [IC 16-27-1-7](#)

Affected: [IC 10-13-3](#); [IC 16-20](#); [IC 16-22-8](#); [IC 16-27-1](#); [IC 25-22.5](#); [IC 27-8-27-1](#)

Sec. 1. (a) No home health agency shall:

- (1) be opened;
- (2) **be** operated;
- (3) **be** managed;
- (4) **be** maintained; or
- (5) otherwise conduct business;

without a license issued by the department.

(b) A license is required for any home health agency providing care in Indiana where the parent agency is located in a state other than Indiana. The home health agency must:

- (1) be authorized by the secretary of state to conduct business in Indiana; and
- (2) have a branch office located in Indiana.

(c) Application for a license to operate a home health agency shall be:

- (1) made on a form provided by the department; and ~~shall be~~
- (2) accompanied by a nonrefundable fee of ~~one~~ **two** hundred **fifty** dollars ~~(\$100)~~. **(\$250)**.

(d) Disclosure of ownership and management information must be made to the department at the time of the home health agency's initial request for licensure, for each survey, and at the time of any change in ownership or management. The disclosure must include **the names and addresses of** the following:

- (1) ~~The name and address of~~ All persons having at least five percent (5%) ownership or controlling interest in the home health agency.
- (2) ~~The name and address of~~ Each person who is:
 - (A) an officer;
 - (B) a director;
 - (C) a managing agent; or
 - (D) a managing employee;

of the home health agency **and evidence supporting the qualifications required by this article.**

~~(3) The name and address of The corporation, association, or other company that is responsible for the management of the home health agency. and the name and address of~~

(4) The chief executive officer and the chairman or equivalent position of the governing body of that corporation, association, or other legal entity responsible for the management of the home health agency.

(e) After receiving a completed application, the nonrefundable fee required by subsection (c) of this rule, and disclosure of ownership and management information, the department may issue a ~~letter of approval for operating a home health agency~~ **provisional license** for a period of up to ninety (90) days pending an on-site inspection. In determining whether to issue the ~~letter of approval~~, **provisional license**, the department shall consider the following factors:

(1) Whether the department has filed an action against an agency owned or operated by the applicant that resulted in **any of the following:**

- (A) The revocation of a license.
- (B) The denial or renewal of a license.
- (C) The issuance or renewal of a probationary license. ~~or~~
- (D) The payment of a civil penalty.

(2) Whether the department has issued an order against an agency owned or operated by the applicant.

(3) Whether an agency owned or operated by the applicant has surrendered its license to the department.

(4) Whether any injunction has been issued against an agency owned or operated by the applicant. ~~and~~

(5) Whether an agency owned or operated by the applicant has operated in substantial violation of:

(A) this rule; or

(B) any other law governing home health agencies;

at any time within two (2) years immediately preceding the date that the applicant applied for a license.

(f) **After:**

(1) the opening of the agency; and

(2) before the expiration of the provisional license;

~~the department may extend this ninety (90) day period for a total of one hundred twenty (120) days in fifteen (15) day increments. Such decision to grant an extension shall take into consideration the health, safety, and welfare of the citizens the home health agency serves and the individual circumstances warranting the need for the extension. The home health agency must provide the service(s) that have been specified on the application prior to the inspection and must have a minimum of three (3) patients for record review. Record review may consist of both open and closed patient files. conduct a licensing survey or additional documentation will be requested prior to the end of the provisional period to ensure compliance with this article.~~

(g) If the agency is found to be in compliance with this article, the department will issue a full license to operate a home health agency. If the agency is not found to be in compliance with this article, the department may extend the provisional license for ninety (90) days. If the provisional license is extended, a revisit survey may be conducted or additional documentation will be requested before the end of the provisional period to ensure compliance with this article. If the agency is found to be in compliance with this article, the department will issue a full license to operate a home health agency. If the agency is not found to be in compliance with this article after the extended provisional period, the department may do any of the following:

(1) Request additional information concerning the application.

(2) Conduct a further investigation to determine whether a provisional license should be granted.

(3) Deny the application.

~~(g)~~ **(h) In determining whether to issue the initial license to operate a home health agency, the department may consider the following:**

(1) The factors described under subsection (e) of this rule. and

(2) The results of the initial survey.

~~(h)~~ **(i) The full license shall relate back to and reflect the date of the first day of the ninety (90) day letter first provisional license issued by the department.**

~~(i)~~ **(j) In determining whether to renew a license to operate a home health agency, the department may consider the following:**

- ~~(1)~~ The factors described under subsection (e) of this rule. ~~and~~
- ~~(2)~~ Any actions pending against the home health agency.

~~(j)~~ **(k)** In conducting a survey, a surveyor shall receive copies of any and all documents necessary to make a determination of compliance. The surveyor may **do either of the following**:

- ~~(1)~~ Make copies with ~~the~~ permission of the home health agency. ~~or~~
- ~~(2)~~ Supervise any copying process to ensure that photocopies are true and accurate.

At the sole discretion of the department and for good cause shown, the home health agency may be granted up to twenty-four (24) hours to produce documents requested by the surveyor.

~~(k)~~ **(l)** A home health agency may apply to provide a service that was not listed in its application or renewal application by notifying the department in writing of the new service, the date the service is intended to be offered, and all supporting documentation that shows the home health agency is qualified to provide the additional service. ~~Such~~ **This** documentation includes, but is not limited to, the following:

- (1) Personnel qualifications and licensing.
- (2) Limited criminal history from the Indiana central repository established by ~~IC 5-2-5~~; **IC 10-13-3**.
- (3) Procedures for the supervision of personnel.
- (4) Contracts between the home health agency and any person offering the new service.
- (5) Records of physical exams showing that personnel are free of communicable disease.

In the event the initial information submitted is not sufficient for the department to determine the home health agency's compliance regarding the new service, the department will inform the home health agency of the additional documents required. A home health agency may not offer additional services until it has received approval from the department to do so.

~~(l)~~ **(m)** The following are not required to be licensed as a home health agency:

- (1) A physician licensed under [IC 25-22-5](#).
- (2) An individual:
 - (A)** whose permanent residence is in the patient's residence; or
 - (B)** who is a member of the patient's immediate family.
- (3) Incidental services provided by licensed health facilities to their patients.
- (4) An employee of a person holding a license under [IC 16-27-1](#) who provides home health services only as an employee of the licensed person.
- (5) A local health department established under [IC 16-20](#).
- (6) A health care professional who provides one **(1)** health service through a contract with a person licensed under [IC 16-27-1](#).
- (7) A durable medical equipment supply company that furnishes equipment but provides no home health services to persons in their homes.
- (8) A drugstore or wholesale medical supply company that furnishes no home health services to persons in their home.
- (9) A volunteer who provides home health aide services without compensation.
- (10) An individual health care professional who provides professional services to a patient in the temporary or permanent residence of the patient.
- (11) An entity does not need a home health license to provide early intervention services (as defined in ~~IC 12-17-15-3~~) **IC 27-8-27-1**) to a child pursuant to a state program funded by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

~~(m)~~ **(n)** Except as provided in [410 IAC 17-11-5](#), each license shall:

- ~~(1)~~ be for a term of one (1) year; and ~~shall~~
- ~~(2)~~ expire one (1) year from the date of issuance.

The licensee shall notify the department in writing thirty (30) days in advance of closing or selling the home health agency.

~~(n)~~ **(o)** Each license shall:

- ~~(1)~~ be issued only for the home health agency named in the application; and ~~shall~~
- ~~(2)~~ not be transferred or assigned.

Upon sale, assignment, lease, or other transfer, voluntary or involuntary, including those transfers that qualify as changes of ownership, a new owner or person in interest shall obtain a license from the department ~~prior to~~ **before** maintaining, operating, or conducting a home health agency.

~~(e)~~ **(p)** The licensee shall submit an annual activity report to the department on a form provided by the department.

~~(p)~~ **Surveys (q)** The department may ~~be~~ **conduct**, but ~~are~~ **is** not limited to, the following:

(1) Unannounced **licensing** surveys conducted annually for compliance.

(2) Post survey revisits conducted:

(A) based on a home health agency's plan of correction; and

(B) for the purpose of determining compliance.

(3) Patient care ~~complaints~~ **complaint surveys**.

(r) In the years that a home health agency has an accreditation survey by a body recognized as a home health accrediting agency, the home health agency may submit the accreditation survey report to the department for review and action as follows:

(1) If the department determines that the agency was found to substantially comply with the accreditation standards, the department will accept the report instead of a licensing survey.

(2) If the department determines that the agency failed to significantly comply with the accreditation standards, the department may conduct a licensing survey.

(Indiana State Department of Health; [410 IAC 17-10-1](#); filed Mar 18, 2002, 3:40 p.m.: 25 IR 2481; filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

SECTION 8. [410 IAC 17-12-1](#) IS AMENDED TO READ AS FOLLOWS:

[410 IAC 17-12-1](#) Home health agency administration and management

Authority: [IC 16-27-1-7](#)

Affected: [IC 16-27-2](#)

Sec. 1. (a) Organization, services furnished, administrative control, and lines of authority for the delegation of responsibility down to the patient care level shall be:

(1) clearly set forth in writing; and be

(2) readily identifiable.

Administrative and supervisory responsibilities shall not be delegated to another agency or organization, and all services not furnished directly, including services provided through a branch office, shall be monitored and controlled by the parent agency.

(b) A governing body, or designated **person or** persons so functioning, shall assume full legal authority and responsibility for the operation of the home health agency. The governing body shall **do the following**:

(1) Appoint a qualified administrator.

(2) Adopt and periodically review written bylaws or an acceptable equivalent. ~~and~~

(3) Oversee the management and fiscal affairs of the home health agency.

(c) An individual need not be a home health agency employee or be present full time at the home health agency in order to qualify as its administrator. The administrator, who may also be the supervising physician or registered nurse required by subsection (d), ~~of this rule~~, shall do the following:

(1) Organize and direct the home health agency's ongoing functions.

(2) Maintain ongoing liaison among the governing body and the staff.

(3) Employ qualified personnel and ensure adequate staff education and evaluations.

(4) Ensure the accuracy of public information materials and activities.

(5) Implement a budgeting and accounting system.

(6) Ensure that the home health agency meets all rules and regulations for licensure.

(7) Upon request, make available to the commissioner or his **or her** designated agent all:

(A) reports;

(B) records;

(C) minutes;

(D) documentation;

(E) information; and

(F) files;

required to determine compliance within seventy-two (72) hours of ~~such~~ **the** request or, in the event ~~such a~~ **the** request is made in conjunction with a survey, by the time the surveyor exits the home health agency, whichever is sooner.

(8) Ensure that a qualified person is authorized in writing to act in the administrator's absence.

(d) A physician or a registered nurse who has two (2) years of nursing experience, with at least one (1) year of supervisory or administrative experience, shall supervise and direct nursing and other therapeutic services. ~~Such~~ **The** person or similarly qualified alternate shall be on the premises or capable of being reached immediately by phone, pager, or other means. In addition, the person must be able to:

- (1) respond to an emergency;
- (2) provide guidance to staff;
- (3) answer questions; and
- (4) resolve issues;

within a reasonable amount of time, given the emergency or issue that has been raised.

(e) The administrator shall be responsible for an ongoing quality assurance program designed to **do the following**:

- (1) Objectively and systematically monitor and evaluate the quality and appropriateness of patient care.
- (2) Resolve identified problems. ~~and~~
- (3) Improve patient care.

(f) Personnel practices for employees shall be supported by written policies. All employees caring for patients in Indiana shall be subject to Indiana licensure, certification, or registration required to perform the respective service. Personnel records of employees who deliver home health services shall be kept current and shall include documentation of orientation to the job, including **the following**:

- (1) Receipt of job description.
- (2) Qualifications.
- (3) A copy of limited criminal history ~~pursuant to~~ **under** [IC 16-27-2](#).
- (4) A copy of current license, certification, or registration.
- (5) Annual performance evaluations.

(g) **As follows**, personnel records of the supervising nurse, appointed ~~pursuant to~~ **under** subsection (d) of this rule, shall:

- (1) Be kept current. ~~and shall~~
- (2) Include a copy of the following:
 - (1) ~~(A)~~ Limited criminal history ~~pursuant to~~ **under** [IC 16-27-2](#).
 - (2) ~~(B)~~ Nursing license.
 - (3) ~~(C)~~ Annual performance evaluations.
 - (4) ~~(D)~~ Documentation of orientation to the job.

Performance evaluations required by this subsection must be performed every nine (9) to fifteen (15) months of active employment.

(h) Each employee who will have direct patient contact shall have a physical examination by a physician or nurse practitioner ~~no~~ **not** more than one hundred eighty (180) days before the date that the employee has direct patient contact. The physical examination shall be of sufficient scope to ensure that the employee will not spread infectious or communicable diseases to patients.

(i) ~~The home health agency shall require all employees who will have direct patient contact to complete a PPD (mantoux) skin test for tuberculosis no more than thirty (30) days before the date that the employee has direct patient contact and annually thereafter for negative findings. Positive findings shall require appropriate clinical follow-up before the employee has direct patient contact, but no repeat skin test. A physician shall advise and approve policies regarding positive outcomes. The home health agency shall follow the Centers for Disease Control and Prevention guidelines for administering the tuberculin skin test. These guidelines are the "Core Curriculum on Tuberculosis", Chapter IV(B), Fourth Edition (2000) ensure that all employees, staff members, persons providing care on behalf of the agency, and contractors having direct patient contact are evaluated for tuberculosis and documentation as follows:~~

- (1) Any person with a negative history of tuberculosis or a negative test result must have a baseline two-step tuberculin skin test using the Mantoux method or a quantiferon-TB assay unless the

individual has documentation that a tuberculin skin test has been applied at any time during the previous twelve (12) months and the result was negative.

(2) The second step of a two-step tuberculin skin test using the Mantoux method must be administered one (1) to three (3) weeks after the first tuberculin skin test was administered.

(3) Any person with:

(A) a documented:

- (i) history of tuberculosis;
- (ii) previously positive test result for tuberculosis; or
- (iii) completion of treatment for tuberculosis; or

(B) newly positive results to the tuberculin skin test;

must have one (1) chest radiograph to exclude a diagnosis of tuberculosis.

(4) After baseline testing, tuberculosis screening must:

(A) be completed annually; and

(B) include, at a minimum, a tuberculin skin test using the Mantoux method or a quantiferon-TB assay unless the individual was subject to subdivision (3).

(5) Any person having a positive finding on a tuberculosis evaluation may not:

(A) work in the home health agency; or

(B) provide direct patient contact;

unless approved by a physician to work.

(6) The home health agency must maintain documentation of tuberculosis evaluations showing that any person:

(A) working for the home health agency; or

(B) having direct patient contact;

has had a negative finding on a tuberculosis examination within the previous twelve (12) months.

(j) The information obtained from the:

(1) physical examinations required by subsection (h); ~~of this rule and PPD (mantoux) skin tests~~

(2) **tuberculosis evaluations** and clinical follow-ups required by subsection (i); ~~of this rule;~~

must be maintained in separate medical files and treated as confidential medical records, except as provided in subsection (k). ~~of this rule.~~

(k) The following records shall be made available, on request, to the department for review:

(1) Personnel records and policies that document the home health agency's compliance with subsection (f). ~~of this rule.~~

(2) Records of physical examinations that document the agency's compliance with subsection (h). ~~of this rule.~~

(3) Records of ~~PPD (mantoux) skin tests, the results of the skin tests~~ **following:**

(A) **Tuberculosis evaluations.**

(B) Appropriate clinical follow-up for positive findings. ~~and~~

(C) Any other records that document the home health agency's compliance with subsection (i). ~~of this rule.~~

(l) The department shall:

(1) treat the information described in subsection (k) ~~of this rule~~ as confidential medical records; and

(2) use it only for the purposes for which it was obtained.

(m) Policies and procedures shall be written and implemented for the control of communicable disease in compliance with applicable federal and state laws.

(Indiana State Department of Health; [410 IAC 17-12-1](#); filed Mar 18, 2002, 3:40 p.m.: 25 IR 2483; filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

SECTION 9. [410 IAC 17-12-3](#) IS AMENDED TO READ AS FOLLOWS:

[410 IAC 17-12-3](#) Patient rights

Authority: [IC 16-27-1-7](#)

Affected: [IC 16-27-1](#)

Sec. 3. (a) The patient or the patient's legal representative has the right to be informed of the patient's rights

through effective means of communication. The home health agency must protect and promote the exercise of these rights ~~as follows:~~ **and shall do the following:**

- ~~(1) The home health agency shall~~ Provide the patient with a written notice of the patient's right:
 - ~~(A)~~ in advance of furnishing care to the patient; or
 - ~~(B)~~ during the initial evaluation visit before the initiation of treatment.
 - ~~(2) The home health agency shall~~ Maintain documentation showing that it has complied with the requirements of this section.
- (b) The patient has the right to exercise his or her rights as a patient of the home health agency as follows:
- (1) The patient's family or legal representative may exercise the patient's rights as permitted by law.
 - (2) The patient has the right to **the following:**
 - ~~(A)~~ Have his or her property treated with respect.
 - ~~(3) The patient has the right to~~ **(B)** Voice grievances regarding treatment or care that is (or fails to be) furnished, or regarding the lack of respect for property by anyone who is furnishing services on behalf of the home health agency and must not be subjected to discrimination or reprisal for doing so.
 - ~~(4) The patient has the right to~~ **(C)** Place a complaint with the department regarding treatment or care furnished by a home health agency.
 - ~~(5) The patient has the right to~~ **(D)** Be informed about the care to be furnished and of any changes in the care to be furnished as follows:
 - ~~(A)~~ **(i)** The home health agency shall advise the patient in advance of the:
 - ~~(AA)~~ disciplines that will furnish care; and ~~the~~
 - ~~(BB)~~ frequency of visits proposed to be furnished.
 - ~~(B)~~ **(ii)** The patient has the right to participate in the planning of the care. The home health agency shall advise the patient in advance of the right to participate in planning **the following:**
 - ~~(AA)~~ The care or treatment. ~~and in planning~~
 - ~~(BB)~~ Changes in the care or treatment.
 - ~~(C)~~ **(iii)** The home health agency shall advise the patient of any change in the plan of care, including reasonable discharge notice.
 - ~~(6) The patient has the right to~~ **(E)** Confidentiality of the clinical records maintained by the home health agency. The home health agency shall advise the patient of the agency's policies and procedures regarding disclosure of clinical records.
 - ~~(7) (3)~~ The patient or patient's legal representative ~~have~~ **has** the right under Indiana law to access the patient's clinical records unless certain exceptions apply. The home health agency shall advise the patient or the patient's legal representative of its policies and procedures regarding the accessibility of clinical records.
 - ~~(8) (4)~~ The patient has the right to be **as follows:**
 - ~~(A)~~ Free from verbal, physical, and psychological abuse. ~~and to be~~
 - ~~(B)~~ Treated with dignity.

(c) The home health agency shall **do the following:**

- (1) Investigate complaints made by a patient or the patient's family or legal representative regarding **either of the following:****
 - ~~(A)~~ Treatment or care that is (or fails to be) furnished. ~~or regarding~~
 - ~~(B)~~ The lack of respect for the patient's property by anyone furnishing services on behalf of the home health agency. ~~and shall~~
- (2) Document both the existence of the complaint and the resolution of the complaint.**

(d) The home health agency shall make available to the patient upon request, a written notice in advance of furnishing care to the patient or during the initial evaluation visit before the initiation of treatment, a listing of all individuals or other legal entities who have an ownership or control interest in the agency as defined in 42 CFR § 420.201, 42 CFR § 420.202, and 42 CFR § 420.206, **in effect on July 1, 2005.**

(e) The home health agency must inform and distribute written information to the patient, in advance, concerning its policies on advance directives, including a description of applicable state law. The home health agency may furnish advanced directives information to a patient at the time of the first home visit, as long as the information is furnished before care is provided.

(Indiana State Department of Health; [410 IAC 17-12-3](#); filed Mar 18, 2002, 3:40 p.m.: 25 IR 2486; filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

SECTION 10. [410 IAC 17-13-1](#) IS AMENDED TO READ AS FOLLOWS:**[410 IAC 17-13-1](#) Medical plan of care****Authority:** [IC 16-27-1-7](#)**Affected:** [IC 16-21](#); [IC 25](#)

Sec. 1. (a) Patients shall be accepted for care on the basis of a reasonable expectation that the patient's health needs can be adequately met by the home health agency in the patient's place of residence. Medical care shall follow a written medical plan of care established and periodically reviewed by the physician, dentist, chiropractor, optometrist, or podiatrist as follows:

(1) **As follows**, the medical plan of care shall:

(A) Be developed in consultation with the home health agency staff. ~~and shall~~

(B) Include all services to be provided if a skilled service is being provided.

(C) Cover all pertinent diagnoses. ~~and~~

(D) Include the following:

~~(A)~~ **(i)** Mental status.

~~(B)~~ **(ii)** Types of services and equipment required.

~~(C)~~ **(iii)** Frequency and duration of visits.

~~(D)~~ **(iv)** Prognosis.

~~(E)~~ **(v)** Rehabilitation potential.

~~(F)~~ **(vi)** Functional limitations.

~~(G)~~ **(vii)** Activities permitted.

~~(H)~~ **(viii)** Nutritional requirements.

~~(I)~~ **(ix)** Medications and treatments.

~~(J)~~ **(x)** Any safety measures to protect against injury.

~~(K)~~ **(xi)** Instructions for timely discharge or referral.

~~(L)~~ **(xii)** Therapy modalities specifying length of treatment.

~~(M)~~ **(xiii)** Any other appropriate items.

(2) The total medical plan of care shall be reviewed by the attending physician, dentist, chiropractor, optometrist, or podiatrist and home health agency personnel as often as the severity of the patient's condition requires, but at least once every two (2) months. The health care professional staff of the home health agency shall promptly alert the person responsible for the medical component of the patient's care to any changes that suggest a need to alter the medical plan of care. A written summary report for each patient shall be sent to the:

(A) physician;

(B) dentist;

(C) chiropractor;

(D) optometrist; or

(E) podiatrist;

at least every two (2) months.

(b) A home health agency may accept written orders for home health services from a physician, a dentist, a chiropractor, a podiatrist, or an optometrist licensed in Indiana or in any other state. If the home health agency receives an order from a physician, dentist, chiropractor, podiatrist, or optometrist who is licensed in another state, the home health agency shall take reasonable immediate steps to determine ~~that~~ **the following**:

(1) The order complies with the laws of the state where the order originated. ~~and~~

(2) The individual who issued the order:

(A) examined the patient; and

(B) is licensed to practice in that state.

(c) All orders issued by:

(1) a physician;

(2) a dentist;

(3) a chiropractor;

(4) a podiatrist; or

(5) an optometrist;

for home health services must meet the same requirements whether the order originates in Indiana or another

state. Orders issued from another state may not exceed the authority allowed under orders from the same profession in Indiana under [IC 25](#).

(d) Home health agency personnel shall promptly notify a patient's physician or other appropriate licensed professional staff and legal representative, if any, of any significant physical or mental changes observed or reported by the patient. In the case of a medical emergency, the home health agency must know in advance which emergency system to contact.

(Indiana State Department of Health; [410 IAC 17-13-1](#); filed Mar 18, 2002, 3:40 p.m.: 25 IR 2486; filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

SECTION 11. [410 IAC 17-13-2](#) IS ADDED TO READ AS FOLLOWS:

[410 IAC 17-13-2](#) Nursing plan of care

Authority: [IC 16-27-1-7](#)

Affected: [IC 16-27-2](#)

Sec. 2. (a) A nursing plan of care must be developed by a registered nurse for the purpose of delegating nursing directed patient care provided through the home health agency for patients receiving only home health aide services in the absence of a skilled service.

(b) The nursing plan of care must contain the following:

- (1) A plan of care and appropriate patient identifying information.**
- (2) The name of the patient's physician.**
- (3) Services to be provided.**
- (4) The frequency and duration of visits.**
- (5) Medications, diet, and activities.**
- (6) Signed and dated clinical notes from all personnel providing services.**
- (7) Supervisory visits.**
- (8) Sixty (60) day summaries.**
- (9) The discharge note.**
- (10) The signature of the registered nurse who developed the plan.**

(Indiana State Department of Health; [410 IAC 17-13-2](#); filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

SECTION 12. [410 IAC 17-13-3](#) IS ADDED TO READ AS FOLLOWS:

[410 IAC 17-13-3](#) Service plan

Authority: [IC 16-27-1-7](#)

Affected: [IC 16-27-4](#)

Sec. 3. (a) This section shall apply to services that are performed by a personal services agency under [IC 16-27-4](#) that is operated under a home health agency license, which include, but are not limited to, any of the following:

- (1) Homemaker services, including the following:**
 - (A) Shopping.**
 - (B) Laundry.**
 - (C) Cleaning.**
 - (D) Seasonal chores.**
- (2) Companion type services, including the following:**
 - (A) Transportation.**
 - (B) Letter writing.**
 - (C) Mail reading.**
 - (D) Escort services.**
- (3) Assistance with cognitive tasks, including the following:**

- (A) Managing finances.
- (B) Planning activities.
- (C) Making decisions.
- (4) Attendant care services.
- (5) Any other services for which an individual:
 - (A) license;
 - (B) certification;
 - (C) registration; or
 - (D) permit;is not required under state law.

(b) The personal services agency's manager or the manager's designee shall prepare a service plan for a client before providing personal services for the client. A permanent change to the service plan requires a written change to the service plan. The service plan must:

- (1) be in writing, dated, and signed by the individual who prepared it;
- (2) list the types and schedule of services to be provided; and
- (3) state that the services to be provided to the client are subject to the client's right to:
 - (A) temporarily suspend;
 - (B) permanently terminate;
 - (C) temporarily add; or
 - (D) permanently add;the provision of any service.

(c) All permanent changes require a change in the written service plan. The service plan must be signed and dated by the client not later than fourteen (14) days after:

- (1) services begin for the client; and
- (2) any permanent change to the service plan.

(d) Personal care services provided by a personal services agency operated under a home health agency license must meet the requirements of [IC 16-27-4](#).

(Indiana State Department of Health; [410 IAC 17-13-3](#); filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

SECTION 13. [410 IAC 17-16-1](#) IS AMENDED TO READ AS FOLLOWS:

[410 IAC 17-16-1](#) Incorporation by reference

Authority: [IC 16-27-1-7](#)

Affected: [IC 16-27-1](#)

Sec. 1. Chapter IV(B) of "Core Curriculum on Tuberculosis, Fourth Edition, (2000)" is hereby (a) When used in this article, references to the following publication shall mean the version of that publication listed and are hereby incorporated by reference:

- (1) 42 CFR 420.201 (October 1, 2005 edition).
- (2) 42 CFR 420.202 (October 1, 2005 edition).
- (3) 42 CFR 420.206 (October 1, 2005 edition).

(b) Federal rules that have been incorporated by reference Copies of this publication may be obtained by writing to Technical Information Services, Centers for Prevention Services, Centers for Disease Control, Mail Stop E06, Atlanta, Georgia 30333. Copies may also be obtained from the Indiana State do not include any later amendments than those specified in the incorporated citation. Sales of the Code of Federal Regulations are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. All incorporated material is available for public review at the department. of Health, 2 North Meridian Street, Indianapolis, Indiana 46202-3006.

(Indiana State Department of Health; [410 IAC 17-16-1](#); filed Mar 18, 2002, 3:40 p.m.: 25 IR 2489; filed Sep 26, 2006, 9:56 a.m.: [20061025-IR-410050260FRA](#))

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